

### **IC 3-8-5**

#### **Chapter 5. Town Conventions and Major Political Party Nominations in Small Towns**

### **IC 3-8-5-1**

#### **Application of chapter**

Sec. 1. (a) This chapter applies to the nomination of candidates for town offices in each town having a population of less than three thousand five hundred (3,500) that is not located entirely or partially within a county having a consolidated city.

(b) Prison inmates may not be counted in determining population size for purposes of this chapter.

*As added by P.L.5-1986, SEC.4. Amended by P.L.3-1987, SEC.111; P.L.11-1988, SEC.2; P.L.15-1995, SEC.1.*

### **IC 3-8-5-2**

#### **Nomination of candidates**

Sec. 2. (a) A candidate for a town office may be nominated using any of the following methods:

(1) By convention conducted under this chapter.

(2) By a primary election.

(3) By petition filed under IC 3-8-6.

(4) If a town convention or a primary election is not required under section 10 of this chapter for the political party of which the candidate is a member, by the candidate's declaration of candidacy.

(b) Unless a town legislative body adopts an ordinance under subsection (c), a town shall use the convention method described in this chapter to nominate candidates for town offices.

(c) The town legislative body of a town covered by this chapter may adopt an ordinance to specify any other method described in subsection (a) to nominate candidates for town offices.

(d) The town legislative body must adopt an ordinance under subsection (c) not later than January 1 of the year in which a municipal election is held. The town clerk-treasurer shall send a copy of the ordinance to the circuit court clerk of the county that contains the greatest percentage of the town's population.

(e) If a town adopts an ordinance under subsection (c) to nominate candidates by a primary election, the following apply:

(1) The county election board of the county that contains the greatest percentage of the town's population shall conduct the primary election for the town.

(2) All statutes governing primary elections for towns apply.

(3) The town may not change the method of nominating candidates for town offices more than one (1) time in any twelve (12) year period.

*As added by P.L.5-1986, SEC.4. Amended by P.L.3-1993, SEC.63; P.L.167-2001, SEC.2.*

### **IC 3-8-5-3**

### **Town committees**

Sec. 3. (a) Each of the major political parties of the state shall have a committee in a town subject to this chapter known as the \_\_\_\_\_ town committee of the town of \_\_\_\_\_ (designating the name of the party and the town).

(b) A political party's town committee consists of the following individuals:

(1) A registered voter of the town appointed by the political party's county chairman of the county containing the greatest percentage of the population of the town. The individual appointed under this subdivision is the chairman of the town committee. The county chairman may not appoint an individual who holds a town office for the town.

(2) A registered voter of the town appointed by the political party's town chairman. The individual appointed under this subdivision is the secretary of the town committee.

(c) A member of a town committee serves until the member's successor is appointed and qualified.

(d) A member of the town committee serves at the pleasure of the appointing authority of the member.

(e) The individual who is town chairman vacates the office whenever the individual becomes a candidate for a town office of the town.

(f) A vacancy on the town committee shall be filled by the appointing authority of the member who vacated the committee.

*As added by P.L.5-1986, SEC.4. Amended by P.L.3-1987, SEC.112; P.L.4-1996, SEC.26.*

### **IC 3-8-5-4 Repealed**

*(Repealed by P.L.4-1996, SEC.107.)*

### **IC 3-8-5-5**

#### **Repealed**

*(Repealed by P.L.4-1996, SEC.107.)*

### **IC 3-8-5-6**

#### **Repealed**

*(Repealed by P.L.4-1996, SEC.107.)*

### **IC 3-8-5-7**

#### **Repealed**

*(Repealed by P.L.4-1996, SEC.107.)*

### **IC 3-8-5-8**

#### **Repealed**

*(Repealed by P.L.4-1996, SEC.107.)*

### **IC 3-8-5-9**

*(Repealed by P.L.4-1996, SEC.107.)*

### **IC 3-8-5-10**

#### **Calling town conventions; necessity; purpose; notice**

Sec. 10. (a) If more than one (1) candidate from the same political party files a declaration of candidacy for the same office, that political party shall conduct:

- (1) a town convention under this chapter; or
- (2) a primary election;

to choose the nominee of that party for that office as provided in the ordinance adopted under section 2 of this chapter.

(b) If a town convention is required under subsection (a), the town chairman shall organize, conduct, and issue a call for a town convention to be held in the town, or, if there is no suitable location in the town, then either at the nearest available location within any county in which the town is located or at the county seat of any county in which the town is located.

(c) The convention must be held before August 21 in each year in which a municipal election is to be held. The purpose of the convention is to select the nominees for all town offices to be elected at the next municipal election and for which more than one (1) declaration of candidacy has been filed.

(d) The chairman shall file a notice of the call with the circuit court clerk of the county containing the greatest percentage of population of the town. The chairman shall also have notice of the call posted at least three (3) days in three (3) prominent public places in the town, including the office of the clerk-treasurer. The notice must state the time, place, and purpose of the convention.

*As added by P.L.5-1986, SEC.4. Amended by P.L.3-1987, SEC.114; P.L.10-1988, SEC.40; P.L.3-1993, SEC.64; P.L.4-1996, SEC.27; P.L.144-1999, SEC.1; P.L.167-2001, SEC.3.*

### **IC 3-8-5-10.5**

#### **Declaration of candidacy**

Sec. 10.5. (a) A person who desires to be nominated for a town office by a major political party must file a declaration of candidacy with the circuit court clerk of the county containing the greatest percentage of population of the town.

(b) A declaration of candidacy must be filed:

- (1) not earlier than January 1; and
- (2) not later than:
  - (A) noon August 1 before a municipal election if the town nominates its candidates by convention; and
  - (B) the date that a declaration of candidacy must be filed under IC 3-8-2-4 if the town nominates its candidates by a primary election.

(c) The declaration must be subscribed and sworn to (or affirmed) before a notary public or other person authorized to administer oaths.

(d) The declaration of each candidate required by this section must certify the following information:

- (1) The candidate's name, printed or typewritten as:
  - (A) the candidate wants the candidate's name to appear on

the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) That the candidate is a registered voter and the location of the candidate's precinct and township (or the ward and town), county, and state.

(3) The candidate's complete residence address and the candidate's mailing address if the mailing address is different from the residence address.

(4) The candidate's party affiliation and the office to which the candidate seeks nomination, including the district designation if the candidate is seeking a town legislative body seat.

(5) That the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office.

(6) The candidate's signature.

(e) Immediately after the deadline for filing, the circuit court clerk shall do all of the following:

(1) Certify to the town clerk-treasurer and release to the public a list of the candidates of each political party for each office. The list shall indicate any candidates of a political party nominated for an office under this chapter because of the failure of any other candidates of that political party to file a declaration of candidacy for that office.

(2) Post a copy of the list in a prominent place in the circuit court clerk's office.

(3) File a copy of each declaration of candidacy with the town clerk-treasurer.

(f) A person who files a declaration of candidacy for an elected office for which a per diem or salary is provided for by law is disqualified from filing a declaration of candidacy for another office for which a per diem or salary is provided for by law until the original declaration is withdrawn.

(g) A person who files a declaration of candidacy for an elected office may not file a declaration of candidacy for that office in the same year as a member of a different political party until the original declaration is withdrawn.

(h) A person who files a declaration of candidacy under this section may file a written notice withdrawing the person's declaration of candidacy in the same manner as the original declaration was filed, if the notice of withdrawal is filed not later than:

(1) noon August 1 before the municipal election if the town nominates its candidates by convention; and

(2) the date that a declaration of candidacy may be withdrawn under IC 3-8-2-20 if the town nominates its candidates in a primary election.

(i) A declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration

record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy. *As added by P.L.3-1987, SEC.115. Amended by P.L.10-1988, SEC.41; P.L.4-1991, SEC.39; P.L.3-1993, SEC.65; P.L.3-1995, SEC.56; P.L.4-1996, SEC.28; P.L.144-1999, SEC.2; P.L.202-1999, SEC.4; P.L.167-2001, SEC.4.*

### **IC 3-8-5-11**

#### **Eligibility to vote at convention**

Sec. 11. (a) To determine who may vote at the convention, the standards prescribed by IC 3-10-1-6 through IC 3-10-1-10 for determining political party affiliation at a primary election apply.

(b) The county election board shall furnish the secretary of the convention a list of all the town's voters. An individual who wants to vote in a town convention must register with the secretary of the convention before being permitted to vote in the convention. The secretary of the convention shall note on the list of the town's voters when an individual registers with the secretary.

(c) An individual may not vote at more than one (1) convention held in the town during the same election year.

*As added by P.L.5-1986, SEC.4. Amended by P.L.167-2001, SEC.5.*

### **IC 3-8-5-12**

#### **Chairman and secretary of convention; items of business to be conducted; nomination of candidates by majority vote**

Sec. 12. (a) The town chairman and secretary of each town political party committee shall act as chairman and secretary of their respective conventions.

(b) As the first item of convention business, the town chairman shall make the initial determination regarding which individuals are eligible to vote in the town convention under section 11 of this chapter. If an individual objects to the determination of the chairman, the matter shall be put to the vote of all those individuals whose eligibility to vote is not in dispute.

(c) As the second item of convention business, the town chairman shall submit copies of proposed rules to the members of the convention for adoption. The rules must provide for at least the following:

- (1) The voting method to be used for nominating candidates at the convention.
- (2) The method to be used for resolving tie votes.
- (3) Any method for removing candidates from consideration by the convention if no candidate receives a majority vote from all

voters casting a ballot at the convention.

(4) The rights of nonvoting observers, media, candidate watchers, or others attending the convention.

(d) If the town chairman of the political party committee is unable or unwilling to act as chairman of the convention, the secretary acts as chairman until the convention elects a chairman of the convention from among the voters attending the convention. If the town secretary of the political party committee is unable or unwilling to act as secretary of the convention, the convention shall elect a secretary of the convention from among the voters attending the convention.

(e) After adoption of the convention rules, the convention may proceed to vote on the candidates to be nominated. The candidates for town offices must be nominated by a majority of the voters present and voting.

*As added by P.L.5-1986, SEC.4. Amended by P.L.10-1988, SEC.42; P.L.4-1991, SEC.40; P.L.3-1993, SEC.66; P.L.4-1996, SEC.29.*

### **IC 3-8-5-13**

#### **Certificate of nomination**

Sec. 13. (a) The chairman and secretary of a town convention shall execute a certificate of nomination in writing, setting out the following:

(1) The name of each nominee as:

(A) the nominee wants the nominee's name to appear on the ballot; and

(B) the nominee's name is permitted to appear on the ballot under IC 3-5-7.

(2) The residence address of each nominee.

(3) The office for which each nominee was nominated.

(4) That each nominee is legally qualified to hold office.

(5) The political party device or emblem by which the ticket will be designated on the ballot.

(b) Both the chairman and secretary shall acknowledge the certificate before an officer authorized to take acknowledgment of deeds.

(c) The certificate must be filed with the circuit court clerk of the county having the greatest percentage of the population of the town.

(d) The certificate must be filed with the circuit court clerk no later than noon August 28 before the municipal election.

(e) The circuit court clerk shall file a copy of each certificate with the town clerk-treasurer no later than noon September 4.

*As added by P.L.5-1986, SEC.4. Amended by P.L.3-1987, SEC.116; P.L.10-1988, SEC.43; P.L.3-1989, SEC.5; P.L.3-1993, SEC.67; P.L.144-1999, SEC.3; P.L.202-1999, SEC.5.*

### **IC 3-8-5-14**

#### **Certificate of nomination**

Sec. 14. (a) A certificate of nomination must be signed before a person authorized to administer oaths and certify the following

information:

- (1) The name of the party, the town where the convention was held, the date of the convention, and the date of the town election.
- (2) The name, residence, and office of each candidate that was nominated at the convention.
- (3) That each candidate for town council resides in the ward for which the person is a candidate.
- (4) That each candidate is a registered voter of the town and legally qualified to hold the office for which the person is a candidate.
- (5) The title of the party that the candidates represent and the device by which the candidates may be designated on the ballots (a symbol to designate the party).
- (6) The signature and residence address of the presiding officer and secretary of the convention.

(b) The certificate of nomination must be filed with the circuit court clerk of the county where the convention was held.

*As added by P.L.5-1986, SEC.4. Amended by P.L.10-1988, SEC.44; P.L.8-1989, SEC.4; P.L.3-1993, SEC.68; P.L.3-1995, SEC.57; P.L.4-1996, SEC.30.*

### **IC 3-8-5-14.3**

#### **Effect and procedure where convention not required**

Sec. 14.3. If a convention or a primary election is not required under section 10 of this chapter, notwithstanding IC 3-10-7:

- (1) a municipal primary election or town convention may not be held; and
- (2) each candidate who filed a declaration of candidacy shall be placed on the municipal election ballot, unless IC 3-10-7-6(b) applies.

*As added by P.L.3-1993, SEC.69. Amended by P.L.167-2001, SEC.6.*

### **IC 3-8-5-14.5**

#### **Notice of withdrawal**

Sec. 14.5. (a) A town election board or circuit court clerk conducting a municipal election under IC 3-10-7 may not include the name of a candidate nominated by a town convention on the municipal election ballot if the person files a notice to withdraw with the board or clerk.

(b) The notice to withdraw must:

- (1) be signed and acknowledged before an officer authorized to take acknowledgments of deeds;
- (2) have the certificate of acknowledgment appended to the notice; and
- (3) be filed with the board or clerk no later than noon three (3) days following the adjournment of the convention.

*As added by P.L.10-1988, SEC.45.*

### **IC 3-8-5-14.7**

### **Validity of documents**

Sec. 14.7. (a) All questions regarding the validity of a declaration of candidacy, a petition of nomination, a certificate of nomination of a candidate by a town convention, or a declaration of intent to be a write-in candidate for election to a town office subject to this chapter shall be referred to and determined by the town election board (or by the appropriate county election board if a county election board is conducting the election for the town).

(b) The election board shall rule on the validity of any document described in subsection (a) not later than noon September 11 following the filing of the document.

*As added by P.L. 4-1996, SEC.31. Amended by P.L. 144-1999, SEC.4.*

### **IC 3-8-5-15**

#### **Preservation of certificates of nomination and petitions of nomination**

Sec. 15. A town clerk-treasurer shall preserve in the clerk-treasurer's office:

(1) all certificates of nomination and declarations of candidacy filed with the town clerk-treasurer under this chapter; and

(2) all petitions of nomination filed under IC 3-8-6-10;

for the period required under IC 3-10-1-31 after the municipal election for which the nominations were made.

*As added by P.L. 5-1986, SEC.4. Amended by P.L. 3-1987, SEC.117; P.L. 10-1988, SEC.46.*

### **IC 3-8-5-16**

#### **Repealed**

*(Repealed by P.L. 3-1987, SEC.570.)*

### **IC 3-8-5-17**

#### **Nomination for town office**

Sec. 17. (a) This section applies to a political party:

(1) not qualified to conduct a primary election under IC 3-10; and

(2) not required to nominate candidates by a petition of nomination under IC 3-8-6.

(b) An individual who desires to be nominated for a town office by the political party must file a declaration of candidacy in the same manner as a candidate for nomination by a major political party under section 10.5 of this chapter. If a convention would be required for the political party under section 10 of this chapter, the political party shall conduct a convention to nominate candidates for town office not later than the date for conducting a major party town convention under section 10 of this chapter.

(c) The chairman and secretary of the town convention shall execute, acknowledge, and file a certificate setting forth the nominees of the convention in accordance with section 13 of this chapter.

(d) Each candidate nominated under this section shall execute a



consent to the nomination in the same form as a candidate nominated by petition under IC 3-8-6. The consent must be filed with the certificate under subsection (c). An individual who wishes to withdraw as a candidate after nomination by the convention must do so in the manner prescribed by section 14.5 of this chapter.

(e) The circuit court clerk shall file a copy of each certificate and each candidate's consent with the town clerk-treasurer in accordance with section 13 of this chapter.

(f) A candidate's consent to the nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's consent to the nomination and the name on the candidate's voter registration record, the officer with whom the consent to the nomination is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to the nomination.

*As added by P.L.3-1995, SEC.58. Amended by P.L.38-1999, SEC.26; P.L.202-1999, SEC.6.*